IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 4527 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ANJUM A NAGORI

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 4527 of 1997

MR HS MUNSHAW for Petitioner No. 1

MR KG SHETH, APP for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 27/02/2003

ORAL JUDGEMENT

The present petitioner, against whom complaint

was filed by the respondent No.2-complainant Ramabhai N. Vala directly into the Court of learned J.M.F.C. which has been numbered as Inquiry Case No.9 of 1994 wherein an order has been passed by the learned Magistrate under Sec.156(3) of Cr.P.C. directing the police authority to investigate into the matter, has filed the petition for quashing the same under Sec.482 of the Code of Criminal Procedure.

2. Heard learned counsel for the respective parties. The main contention raised by the learned counsel for the petitioner in this petition is that trust known as "Sarvodaya Ashram" was registered under the Bombay Public Trust Act in the year 1955 wherein mother of the petitioner was Managing Director and present respondent No.2-original complainant were Directors of the Board. According to petitioner, he is not directly or indirectly connected with the trust in question and he is neither a trustee nor a Director of the Trust. What is coming against him is that he is son of founder of the trust and, therefore, false complaint has been filed against him. Taking me through the complaint in question, learned counsel for the petitioner has stated that the resolution passed by the trust on 24-4-1991 accepting the resignation submitted by the person as Director from the Trust has been given effect by the Joint Charity Commissioner and an appeal being Appeal No.1 of 1993 was preferred before the Joint Charity Commissioner, Rajkot, contenting that the petitioner played mischief with the record of the trust. Said appeal was rejected vide order dated 25th March, 1994. Said order was challenged before the District Court at Junagadh by the respondent No.2 by way of Appeal No.46 of 1994 and it is pending.

3. Facts remain that the present petitioner has nothing to do with the trust in question and he is not directly or indirectly connected with the alleged crime in question as he is neither a trustee nor a director of the trust. It reflects from the proceedings that the respondent No.2 on earlier occasions has filed several complaints against various persons and hence, impugned complaint is nothing but tactics to pressurize the petitioners which on the face of it appears to be an abuse of the process of law and hence, complaint in question deserves to be quashed and this petition requires to be allowed.

4. This petition is allowed. The complaint being Inquiry Case No.9/94(Criminal Complaint No.8/94) pending in the court of learned J.M.F.C., Vanthly, District Junagadh, against the petitioner is quashed and set

aside. Rule is made absolute accordingly.

(R.P.DHOLAKIA,J.)

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